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From: [Strosnick, Lauren](#)
To: [Teng, Austin C.](#); [DeLucia, Nathaniel Louis](#); [Armon, Orion](#); [Bova, Justin](#); [Rhyu, Michelle](#); [Madriral, Angela R.](#); [*msharp@ycst.com](#); [Hallowell, Taylor E.](#); [*jhiggins@ycst.com](#); [Murdter, David](#); [Vanderwall, Cameron C.](#); [Wood, Alissa](#); [Douglas, Jeannine](#); [Gibbs, Tracy](#); [z/Sight Sciences Ivantis](#); [Radovanovich, Alyssa M.](#)
Cc: [SKIvantis](#); [#Alcon-SightSciences](#)
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling
Date: Wednesday, June 14, 2023 7:34:24 PM

Counsel,

Since last Friday, June 9, Defendants have clawed back 28 documents in your productions that allegedly contain privileged information. See A. Teng June 9 email (clawing back 1 document); A. Teng June 10 email (clawing back 17 documents); S. Dirks June 12 email (clawing back 10 documents). We are evaluating the appropriateness of these extensive clawbacks, but in the meantime, we confirm we will sequester the documents at issue in compliance with the Protective Order. We reiterate that it is not Sight's responsibility to review Defendants' production for privileged documents. We expect Defendants to identify any additional allegedly privileged documents in their production in a timely manner and no later than **June 16**. As mentioned in our previous correspondence, Sight does not acquiesce with at least some of your privilege assertions, and we will follow-up on this issue after evaluating your latest demands.

Following up on our June 9 email below, you stated on our June 7 meet-and-confer that you would produce the privilege log of Shay Glenn materials by June 12 (Monday). Please do so as soon as possible and no later than **EOD tomorrow (6/15)**, especially in view of Jim Shay's upcoming deposition on June 20.

Regarding the deposition of Mr. Chodzko, we accept July 13 but reserve the right to supplement Sight's opening expert report regarding damages (due July 13), without altering any deadlines in the Scheduling Order.

Below are our responses to the questions in your 5/12 email:

- Sight will accept service of the subpoena duces tecum on behalf of Reay Brown. Dr. Brown reserves all objections regarding the scope of the subpoena, and will serve written responses and objections to the subpoena by the response deadline. Sight will agree to add Dr. Brown as an ESI custodian only if Defendants agree to add Mr. Kenneth Galt as a reciprocal 11th ESI custodian.
- We will produce an unredacted version of SGHT0026834, which is the only document with redactions among the SBIR document plus attachments you identified (SGHT0026782-0026845).
- We are considering your request to identify specific document(s) on which we seek corporate testimony under Topic 20 to Ivantis and Topic 19 to Alcon.
- We disagree that supplemental responses to Defendants' Interrogatory Nos. 2, 8, 14, and 19-21 are warranted at this time, for the reasons explained below. See A. Teng June 9 email. We are willing to meet-and-confer regarding Interrogatory Nos. 19-21 as needed.
 - **Interrogatory No. 2** seeks Sight's contentions regarding objective indicia of nonobviousness for each claim of the Asserted Patents. Sight has already provided two supplements to its initial response, and does not have any additional information to

provide in response to this interrogatory at this time.

- **Interrogatory No. 8** seeks Sight's contentions regarding prior art validity of the Asserted Patents. Sight's responses, including two supplemental responses, are sufficient and commensurate with the level of detail provided in Defendants' Oct. 6, 2022 initial invalidity contentions, which are vague and deficient for the reasons addressed in our previous correspondence. *See* Scheduling Order, § 2(f). Patent claims carry a presumption of validity, and it is Defendants' burden to establish invalidity on a limitation-by-limitation basis by clear and convincing evidence. It is improper for Defendants to attempt to shift the burden to Sight to show that each limitation is valid. Sight does not intend to provide further supplements at this time. *See* L. Strosnick 4/18/2023 email.
- **Interrogatory No. 14** seeks Sight's contentions regarding why the Helix Microstent is a Covered Product on a claim-by-claim and element-by-element basis. The case you cited does not stand for your assertion that Sight must provide a claim chart comparing the Helix Microstent to the asserted claims on an element-by-element basis. In *LG.Philips LCD Co. v. Tatung Co.*, No. CV 04-343 JJF, 2006 WL 8452362 (D. Del. Nov. 8, 2006), the relevant interrogatory sought contentions regarding the nexus between the claimed invention and the commercial success of the **defendants' product**; it did not seek information regarding any product manufactured by the **plaintiff** that allegedly embodied the claimed invention—much less did the Court require any claim-by-claim or element-by-element analysis. *See id.* at *4 (merely requiring plaintiff to "identify the facts that underpin [plaintiff's] asserted knowledge"). Here, Sight is not relying on the Helix Microstent to show commercial success. *See* Sight's 5/19/23 Third Supplemental Response to Interrogatory No. 2 at pp. 13, 15, 17-18. Sight does not intend to supplement its response at this time.
- **Interrogatory No. 19:** Sight disagrees that this response is deficient, or that its contents are substantively inaccurate, but will prepare a supplemental response to this interrogatory within the next few days.
- **Interrogatory No. 20:** Defendants' complaint regarding Sight's response to Defendants' Interrogatory No. 20 is baseless. Interrogatory No. 20 seeks an explanation of the negative impact Defendants' infringement has had on the accounts listed in Sight's response to Defendants' Interrogatory No. 12. Such explanation may be ascertained from the documents specified in Sight's response, as is permitted by the Federal Rules. *See* Fed. R. Civ. P. 33(d)(1). Your contention that the cited documents do not correlate with each of the accounts listed in Sight's response to Interrogatory No. 12 is also plainly untrue. In particular, the spreadsheet produced at SGHT0166268 lists "OMNI accounts that have been harmed by competition with Ivantis/Alcon" along with "prospective accounts that refuse to try OMNI," including the accounts listed in Sight's response to Interrogatory No. 12, and includes narrative descriptions of the various harms associated with the accounts. The information contained in Sight's response to this interrogatory may also be corroborated by comparing account-level transaction information produced by Defendants and Sight. To the extent that Sight has not already listed that evidence in its response, Sight will supplement this interrogatory to do so. Finally, SGHT0166268 contains data that was collected in a Google Form, and therefore has no metadata.

Interrogatory No. 21 seeks Sight's contentions regarding, *inter alia*, whether spoliation has occurred in this case. Sight's investigation of the date by which Defendants first had a duty to preserve Sight-related evidence is ongoing. As Defendants know, the Court has ordered production of a redacted version of Mr. Galt's deposition transcript in the *Glaukos* litigation, which Sight expects to reveal further information regarding the spoliation issue. D.I. 195 at 1. Additionally, Sight expects the upcoming depositions of Dave Van Meter, Jim Shay and Steve McAuley, and the outstanding document request subpoenas to Steve McAuley and Shay Glenn, to reveal further information relevant to spoliation. Sight will supplement its response to Interrogatory No. 21 in due course.

- Additionally, regarding the A. Teng May 26 email, we confirm we are not withholding any other information responsive to **Interrogatory No. 12**, but reserve the right to supplement that interrogatory response in due course, as discovery is ongoing.
- As to **Interrogatory No. 13**, the referenced "outside funding" was not "Helix" funding but rather seed and venture investments that every emerging growth company obtains in the normal course. The company has produced financial information for the relevant time periods (e.g., 2018 forward) showing its financial condition. To the extent that Sight's financials have not been referenced in its response, Sight will supplement with exemplary Bates numbers in the coming days.
- Our investigation of the "missing attachments" issue is complete, and we will produce the additional documents that we were able to locate. Specifically, we reviewed the two documents brought to our attention (SGHT0031048, SGHT0031051) that include previous emails referencing attachments being sent and located some or all of the attachments and will produce them in the coming days to the extent that they are non-privileged.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>

Sent: Wednesday, June 14, 2023 3:22 PM

To: Strosnick, Lauren <lStrosnick@cooley.com>; DeLucia, Nathaniel Louis <nathaniel.delucia@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

Defendants de-designate Jasmine Ainetchian on Alcon Topic 6.

Below are Defendants' positions regarding Sight's 30(b)(6) topics discussed at last week's meet and confer:

- Topic 5 (Ivantis); Topic 6 (Alcon) – Defendants stand on their objections. Defendants will not provide a witness on this topic.
- Topic 6 (Ivantis); Topic 7 (Alcon) – Defendants stand on their objections. Defendants will not provide a witness on how Ivantis's documents were transferred to Alcon because it does not fall within the scope of the topic served.
- Topic 20 (Ivantis); Topic 19 (Alcon) – See email 6/10 email from S. Dirks.
- Topic 32 (Ivantis); Topic 31 (Alcon) – Defendants will provide a witness on any products that are sold or used with (or planned to be sold or used with) the Accused Products.
- Topic 34 (Ivantis); Topic 33 (Alcon) – Defendants will not provide a witness on this topic; however, Defendants will provide a list of any physician-consultants contracted for work related to using the Hydrus Product.
- Topic 70 (Ivantis); Topic 68 (Alcon) – Defendants stand on their objections.
- Topic 71 (Ivantis); Topic 69 (Alcon) – Defendants stand on their objections.
- Topic 72 (Ivantis); Topic 70 (Alcon) – Defendants stand on their objections.
- Topic 73 (Ivantis); Topic 71 (Alcon) – Defendants will provide a witness on official communications with shareholders regarding Sight Sciences, the Patents-in-Suit or this litigation.
- Topic 77 (Ivantis); Topic 75 (Alcon) – Defendants will provide a witness on official communications with investors, customers, physicians, and key opinion leaders regarding this litigation.

Regarding the Shay Glenn materials, Defendants confirm they have searched documents for Sight, Badawi, the Patents-in-Suit, and any related patent applications and publications.

With respect to identifying privileged materials that have been inadvertently produced, contrary to your assertion that "it is not [y]our responsibility to do so," you have "a good-faith obligation" under the Protective Order "to notify" us if you receive a document that appears on its face to be Privileged Information. We expect you to abide by this obligation

Best regards,
Austin

Austin Teng

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From: Strosnick, Lauren <LStrosnick@cooley.com>
Sent: Friday, June 9, 2023 12:07 AM
To: Teng, Austin C. <austin.teng@kirkland.com>; DeLucia, Nathaniel Louis <nathaniel.delucia@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

We write to memorialize the parties' discussions during the June 5 and June 7 meet-and-confers regarding various discovery issues.

Deposition scheduling

We accept June 29 for Mr. Chodzko and June 20 for Mr. Shay. Please confirm tomorrow (June 9) where Mr. Shay will be located for his deposition. Please provide by June 9 a date for Mr. McAuley before the June 29 close of fact discovery, or written confirmation that he is unavailable during the fact discovery period. We are willing to stipulate to a brief extension of the close of fact discovery for the sole purpose of accomplishing a limited number of depositions of witnesses who were not available during the fact discovery period (including Dr. Galanis), on the condition that the extension does not have any impact on any other dates in the Scheduling Order. Please also confirm whether you accept June 27, 28, 29, or 30 for Tim Buckley's rescheduled deposition (see 6/6/23 Email).

Defendants' clawbacks

The parties are at impasse regarding Defendants' 5/25 clawback of IVANTIS_SS_00222500, IVANTIS_SS_00222501, IVANTIS_SS_00300832. As explained on the meet-and-confer, the fact that Ivantis conducted FTO analysis regarding Sight's patents is not a privileged attorney-client communication, and even if this fact was privileged at one point, such privilege was waived during discovery in the *Glaukos* litigation. See, e.g., IVANTIS_SS_00172456 (87:7-12) (Dave Van Meter testifying that Ivantis's "overview of our freedom to operate . . . includes . . . Sight Sciences").

Regarding the Cari Stone-related clawbacks (6/2/2023 A. Teng Letter), we understand that you will provide a clean, final version of IVANTIS_SS_00206226, and redacted versions of IVANTIS_SS_00331502, IVANTIS_SS_00208219, IVANTIS_SS_00208990, and IVANTIS_SS_00321530. We continue to believe that the factual information in these documents is not privileged. Furthermore, as we noted on the call, counsel allowed questioning on IVANTIS_SS_00331502 and IVANTIS_SS_00208219 during Ms. Stone's deposition; thus, to the extent any privilege existed, it was waived with respect to these documents. See *Nat. Corp. v. Deramus*, 313 F. Supp. 224, 227 (D. Del. 1970) (holding that once a corporate representative "disclosed that it had some confidential conversations with counsel relating to the by-law and charter amendments, it could not refuse to identify, on the ground of privilege,

other occasions when this particular subject matter was discussed with counsel”); *see also* *Nationwide Life Ins. Co. v. St. Clair Mobile Home Parks, LLC*, 2005 U.S. Dist. LEXIS 30348, at *20 (D. Mo. Dec. 1, 2005) (“By voluntarily providing information pertaining to [attorney-client] communications at issue here [during the deposition of a managing member of St. Clair], St. Clair waived the privilege with regard to those communications.”). Sight confirms it will sequester the documents at issue in compliance with the Protective Order pending resolution of this dispute.

Finally, Defendants are responsible for reviewing their clients’ production for privileged documents and otherwise timely asserting privilege; it is not our responsibility to do so.

Third party document request subpoena issues

Thank you for confirming that you will produce the privilege log of Shay Glenn materials by June 12. We expect this privilege log to include materials pre-dating 2016, based on our discussions with Shay Glenn’s counsel. We also expect that you searched this set of documents for at least Sight, Badawi, the Patents-in-Suit, and any related patent applications and publications, as noted in our May 12 email; please confirm by June 12. Thank you also for confirming that you will promptly produce the requested privilege log entries in response to the McAuley document request subpoena; please do so no later than June 16.

Sight’s 30(b)(6) notices to Ivantis and Alcon

Please advise by 5pm ET tomorrow, June 9, whether you will provide a witness for the 30(b)(6) topics that have been subject of two extensive meet-and-confers this week but remain unresolved:

- Topic 5 (Ivantis); Topic 6 (Alcon) – Defendants will identify a witness for Ivantis’s and Alcon’s (respectively) policies and practices with respect to document retention, including Ivantis’s document destruction policy from 2013-2017.
- Topic 6 (Ivantis); Topic 7 (Alcon) – Defendants will identify a witness to testify regarding how Ivantis’s documents and information systems were transferred to Alcon in connection with the acquisition. Defendants will not identify a witness regarding Defendants’ document collection efforts and productions in this litigation. Defendants will get back to us on whether they will identify a witness to testify regarding the timing of any litigation hold placed to suspend any document destruction policy for documents related to this litigation; please do so this week.
- Topic 32 (Ivantis); Topic 31 (Alcon) – please provide your final position this week based on the parties’ discussions.
- Topic 71 (Ivantis); Topic 69 (Alcon) – please provide your final position this week based on the parties’ discussions.
- Topic 72 (Ivantis); Topic 70 (Alcon) – the parties are at impasse.
- Topic 20 (Ivantis); Topic 19 (Alcon) – please provide your final position this week based on the parties’ discussions. As explained, these Topics seek testimony regarding representations made to the FDA regarding the structure and function of the Hydrus, such as any representations in FDA submissions regarding the surface area contact of the Hydrus with the internal wall of Schlemm’s canal or estimations of the same, dimensions of the Hydrus, or the effect of the Hydrus on aqueous outflow.
- Topic 34 (Ivantis); Topic 33 (Alcon) – Defendants to investigate the number of relevant physician-consultants, and consider offering a witness to testify regarding the scope of these individuals’ consultancies. Please provide your final position this week.
- Topic 70 (Ivantis); Topic 68 (Alcon) – please provide your final position this week based on the parties’ discussions. Sight clarified that the relevant MIGS device with respect to Ivantis would be the Hydrus.
- Topic 73 (Ivantis); Topic 71 (Alcon) – Defendants will likely identify a witness to testify regarding communications with shareholders but will confirm; please do so this week. Defendants will not provide a witness to testify regarding communications with other Defendants.
- Topic 77 (Ivantis); Topic 75 (Alcon) – as stated in Sight’s June 5 email, the relevant third parties include investors, customers, physicians, and key opinion leaders. Defendants stated they would consider this list and get back to us. Please provide your final position this week.

Reay Brown documents

As discussed, please identify the additional custodians (beyond those identified in your 1/27/23 second supplemental Paragraph 3 disclosures) from whom you collected and produced documents and describe whether the documents you produced were derived from custodial or non-custodial data sources. Sight maintains that Defendants' request is contrary to the 10-custodian limit set forth by the Delaware Default Standard, but will consider whether to apply the parties' previously-negotiated search terms against Dr. Brown's email address after receiving Defendants' evidence supporting their contention that they searched custodial data sources for more than 10 custodians. Sight will also consider whether it will identify an 11th custodian from whom Ivantis/Alcon would collect and search documents to balance Sight's efforts with regard to Dr. Brown.

Sight's interrogatory responses and "missing attachments"

Sight will provide its position by early next week regarding Defendants' demand that Sight supplement responses to Interrogatory Nos. 8 and 14, and the "missing attachments" Defendants identified in SGHT0031048 and SGHT0031051.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>
Sent: Tuesday, June 6, 2023 7:49 AM
To: Strosnick, Lauren <lStrosnick@cooley.com>; DeLucia, Nathaniel Louis <nathaniel.delucia@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

We are available to continue the meet and confer tomorrow at 5 pm ET.

Please be prepared to address our request that Sight collect and produce documents from Reay Brown, Sight's Chief Medical Officer. As we stated in our 5/26 email, we would expect Dr. Brown to be in possession of responsive, non-privileged materials for at least RFP Nos. 4, 6, 13, 17, 25-27, 31, 51, 58, 64-65, 68, 87-90, 92-94, yet Sight has not produced a single document with Dr. Brown as

custodian. Sight has an obligation to search for and produce relevant, responsive, non-privileged materials and it is not sufficient to state that Sight has produced documents from 10 custodians. 5/29 L. Strosnick email. We requested to meet and confer on this issue but were not able to get to it on the parties' 6/5 discussion. During the meet and confer, please be prepared to give us your final position on this so we can get this in front of the court as soon as possible, if necessary.

Additionally, as requested during David Badawi's deposition, please produce the unredacted version of the SBIR document plus its attachments. SGHT0026782-0026845. If this is not the final application that was submitted to the National Institutes of Health, please produce the final application that was submitted to the NIH, as demonstrated by SGHT0116857.

In addition, please let us know as soon as possible whether you can accommodate the scheduling change for the Mojica deposition, shifting it by one day to Thursday, June 15.

Regards,
Austin

Austin Teng

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From: Strosnick, Lauren <LStrosnick@cooley.com>

Sent: Monday, June 5, 2023 9:48 PM

To: DeLucia, Nathaniel Louis <nathaniel.delucia@kirkland.com>; Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

We propose the following days/times (with a preference for 4-8pm ET tomorrow) for our follow-up meet-and-confer to discuss Defendants' 5/24 objections to Sight's 30(b)(6) Topic Nos. 20, 34, 70, 73, and 77 to Ivantis (corresponding to Topic Nos. 19, 33, 68, 71, and 75 to Alcon), for which Defendants

offered to meet and confer:

- Tues, 6/6 – noon-1pm, 2-3pm, or 4-8pm ET
- Wed, 6/7 – noon-2pm or 4:30-8pm ET

Please confirm your availability as soon as possible. Below are Sight's positions regarding the relevance of Topic Nos. 20, 34, 70, 73, and 77:

- Topic 20 seeks corporate testimony regarding "[t]he facts and circumstances Relating to FDA regulatory approval of the Accused Product for use in patients, including but not limited to Your pre-application communications and submissions, Your application for premarket approval of the Accused Product, and all post-approval communications and submissions Relating to post-approval studies, supplements, or labeling amendments." This Topic is highly relevant to the issues of direct and induced infringement; any representations by Defendants to the FDA regarding the structure and function of the Hydrus would be particularly relevant.
- Topic 34 seeks corporate testimony regarding "[t]he identities of all physician-consultants with whom You contract for work related to using the Hydrus Product, and the substantive work performed by such physician-consultants, including their production of videos regarding how to use the Hydrus Product." This Topic is also highly relevant to the issues of direct and induced infringement; for example, whether Defendants actively encouraged or directed said physician-consultants to use the Hydrus in an infringing manner.
- Topic 70 seeks corporate testimony regarding "[a]nalysis or valuations of acquisitions or potential acquisitions of companies or businesses Relating to MIGS devices and/or the Accused Products." This Topic is highly relevant to at least reasonable royalty damages, i.e., the amount Defendants would have paid to license the Asserted Patents as part of a hypothetical negotiation.
- Topic 73 seeks corporate testimony regarding "[a]ll communications regarding Sight Sciences, the Patents-in-Suit or this litigation that You have had with Your shareholders, agents, or the other Defendants in this lawsuit, including descriptions and assessments of the suit prior to Alcon's acquisition of Ivantis." This Topic is relevant to numerous issues in this litigation, including validity, infringement, willful infringement, and damages.
- Topic 77 seeks corporate testimony regarding "[a]ny communications You have had with Any third parties related to this litigation." This Topic is relevant to numerous issues in this litigation, including validity, infringement, willful infringement, and damages; examples of relevant third parties include investors, customers, physicians, and key opinion leaders.

On this follow-up meet-and-confer, please also be prepared to:

- Provide a date certain by which you will provide the privilege log of the Shay Glenn materials transferred to Alcon in June 2022;
- Provide dates for the depositions of Mr. McAuley and Mr. Shay;
- Provide your final position regarding the McAuley document request subpoena, and clarify whether and when Mr. McAuley was employed by Ivantis;
- Provide your final position regarding whether you will provide a corporate witness for 30(b)(6) Topics 5, 6, 32, 71, and 72; and
- Discuss Mr. Teng's 6/2 letter regarding clawback of Cari Stone materials.

As noted on today's meet-and-confer, it is critical that the parties reach closure on these issues as

soon as possible, given the impending close of fact discovery and the amount of time already passed since the parties' initial discussion of certain issues. For example, it has been nearly **3 weeks** since the parties' 5/16 meet-and-confer where you stated you would provide your positions regarding the Shay Glenn materials, the narrowed McAuley document request subpoena, and dates for the McAuley and Shay depositions. Defendants' delay is prejudicing Sight's ability to discover facts relevant to, *inter alia*, its willful infringement claim and Ivantis's spoliation of evidence.

Regarding deposition scheduling, we confirm that we can take Brandon Mojica's deposition on June 15. As discussed, please confirm whether Mr. Chodzko is available on June 12, 13, or 14; alternatively, please confirm that Defendants will not rely on his knowledge at trial. Please let us know whether you will reconsider taking Dr. Galanis's deposition during the expert deposition stage (regarding both his expert and factual knowledge) in light of our discussion today that the scope of Dr. Galanis's relevant factual knowledge relates to discussions with Defendants' sales representatives. Alternatively, if you would like to proceed with his deposition on this narrow topic, please let us know if you agree to limit that deposition to 2 hours. Such an agreement would facilitate scheduling.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: DeLucia, Nathaniel Louis <nathaniel.delucia@kirkland.com>

Sent: Friday, June 2, 2023 3:26 PM

To: Strosnick, Lauren <lStrosnick@cooley.com>; Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Lauren,

Monday (6/5) at 11:30 am - 12:30 pm ET works for us. Please circulate a dial-in. Please also be prepared to discuss the issues raised in Mr. Teng's May 26, 2023 email, and your refusal to produce responsive documents from Dr. Brown.

Thanks,
Nathaniel

From: Strosnick, Lauren <LStrosnick@cooley.com>
Sent: Thursday, June 1, 2023 8:13 PM
To: DeLucia, Nathaniel Louis <nathaniel.delucia@kirkland.com>; Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Nathaniel and Shaw Keller team,

We are available to meet and confer regarding the issues in our 5/29 email on the following days/times (including weekend dates given limited counsel availability during the weekdays due to depositions):

- Friday, 6/2 – 11am-1:30pm ET
- Saturday, 6/3 – 11am-2pm ET
- Sunday, 6/4 – 11am-2pm ET
- Monday, 6/5 – 11am-12:30 or 1:30-2pm ET

Please let us know when works for you. We would appreciate a response as soon as possible, given that we have reached out to you about various discovery issues on at least six separate occasions since the parties' May 16 meet-and-confer over two weeks ago. (See emails from 5/18, 5/22, 5/24, 5/26, 5/29, 5/31 emails.)

We expect that local counsel and a decision-maker for Defendants will be present on this meet-and-confer.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: DeLucia, Nathaniel Louis <nathaniel.delucia@kirkland.com>
Sent: Thursday, June 1, 2023 11:42 AM

To: Strosnick, Lauren <LStrosnick@cooley.com>; Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Lauren,

We are not available today to meet and confer. Please let us know your availability tomorrow (6/2) and Monday (6/5), and we will get back to you.

Thanks,
Nathaniel

From: Strosnick, Lauren <LStrosnick@cooley.com>
Sent: Wednesday, May 31, 2023 12:58 PM
To: Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>; Radovanovich, Alyssa M. <ARadovanovich@ycst.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Sight confirms that it will sequester the documents you have identified below pursuant to FRCP 26(b)(5)(B) until our dispute regarding your claim of privilege is resolved. We are available to meet and confer any time today, or tomorrow (6/1) at 8-9am PT, to discuss this issue and the other issues outlined in our 5/29 email. Please let us know when you are available.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>
Sent: Tuesday, May 30, 2023 7:28 PM
To: Strosnick, Lauren <LStrosnick@cooley.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; [*msharp@ycst.com](mailto:msharp@ycst.com) <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; [*jhiggins@ycst.com](mailto:jhiggins@ycst.com) <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

We are alarmed by your continued disregard for the Protective Order in this case regarding the claw-back of inadvertently produced privileged documents and demand your immediate compliance.

We notified you on May 25 that IVANTIS_SS_00222500, IVANTIS_SS_00222501, and IVANTIS_SS_00300832 were privileged and had been inadvertently produced in this case. (Email from A. Teng to Cooley dated 5/25/2023.)

After being notified that privileged documents had been inadvertently produced, Sight was obligated to “promptly return, sequester, or destroy the specified information and any copies it has,” “not use or disclose the information until the claim is resolved,” and “take reasonable steps to retrieve the information if the party disclosed it before being notified.” Fed. R. Civ. P. 26(b)(5)(B); *accord* D69 (“Fed. R. Civ. P. 26(b)(5)(B) governs the proper procedure for the notification and return of Privileged Information when identified by the Producing Party.”).

Your email response from last night does not return or confirm destruction of the specified information and any copies you have. Instead, your email flouts the required procedure by **re-accessing and quoting** language from the “Attorney Notes” column of the clawed-back spreadsheets, further discloses the information **by copying twelve others** of Sight Sciences’ counsel **and a listserv**, and improperly **uses** the clawed-back information to argue why Sight does not believe the information is privileged.

Sight was not permitted to further access, use, and proliferate the spread of the privileged

information in violation of the Protective Order and Federal Rules of Civil Procedure.

Please immediately confirm that Sight will comply with the PO and destroy these documents and any copies, including any references to the information in your discovery responses and your email from last night. Please also notify us of every individual who received a copy of the information and confirm that they have destroyed it.

Ivantis and Alcon reserve all rights to raise this troubling issue with the Court.

Regards,
Austin

Austin Teng

KIRKLAND & ELLIS LLP

401 Congress Avenue, Austin, TX 78701

T +1 512 355 4351 M +1 214 444 8364

F +1 512 678 9101

austin.teng@kirkland.com

From: Strosnick, Lauren <lStrosnick@cooley.com>

Sent: Monday, May 29, 2023 10:07 PM

To: Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; [*msharp@ycst.com](mailto:msharp@ycst.com) <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; [*jhiggins@ycst.com](mailto:jhiggins@ycst.com) <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Please let us know when you are available for a meet-and-confer on **Wednesday, May 31**, regarding the following issues:

- The Shay Glenn files transferred to Alcon in June 2022, which are responsive to at least RFP 3 served over a year ago
- Whether you will provide the below privilege log entries in connection with the narrowed document requests to Steve McAuley identified in our 5/10 email and copied below for your convenience:
 - Privilege log entries for any document preservation notice relating to Sight
 - Privilege log entries for any documents or communications relating to the Asserted Patents

Dates for depositions of Steve McAuley and Jim Shay on the non-privileged core issues identified in our 5/10 email and copied below for your convenience:

- Jim Shay
 - The fact of whether and/or when Mr. Shay or others at his firm first became aware of Sight's U.S. Patent Appl. No. 11/475,523; U.S. Publ. No. 2007/0298068; 8,287,482; 9,370,443; 9,486,361; 10,314,742; and/or 11,389,328
 - Mr. Shay's communications and interactions with Paul Badawi regarding any of the above-referenced application, publication, and/or patents
 - The fact of whether Mr. Shay or others at his firm monitored any of the above-referenced application, publication, and/or patents
 - The fact of whether Mr. Shay or others at his firm communicated with Ivantis regarding Sight's patent portfolio, including when such communications occurred, how many times, to whom, and the nature of any such communications (e.g., call, document, meeting)
 - The fact of whether and/or when Mr. Shay or others at his firm prepared freedom to operate opinions relating to the above-referenced application, publication, and/or patents
- Steve McAuley
 - The fact of whether and/or when Mr. McAuley first became aware of Sight's U.S. Patent Appl. No. 11/475,523; U.S. Publ. No. 2007/0298068; 8,287,482; 9,370,443; 9,486,361; 10,314,742; and/or 11,389,328
 - The fact of whether Mr. McAuley monitored any of the above-referenced application, publication, and/or patents
 - The fact of whether Mr. McAuley communicated with Ivantis regarding Sight's patent portfolio, including when such communications occurred, how many times, to whom, and the nature of any such communications (e.g., call, document, meeting)
 - The fact of whether and/or when Mr. McAuley prepared freedom to operate opinions relating to the above-referenced application, publication, and/or patents
- Defendants' 5/24 responses and objections to Sight's 30(b)(6) deposition notices to Ivantis and Alcon
- Defendants' 5/25 clawback of IVANTIS_SS_00222500, IVANTIS_SS_00222501, IVANTIS_SS_00300832
 - The "Attorney Notes" stating **[quote redacted to avoid further copies]** is a non-privileged fact that does not reflect attorney-client communications. To the extent you contend any other portion of these documents is privileged, please identify such portion(s).
- Defendants' 5/26 request for production of documents collected from Dr. Reay Brown
 - On a previous meet-and-confer regarding Sight's RFP 156, Defendants refused to collect documents from the identified Alcon individuals, stating that this would be an end run-around Delaware's Paragraph 3 procedures for identifying the 10 custodians most likely to have discoverable information. Likewise, here, Sight already identified and collected documents from 10 custodians pursuant to Paragraph 3 of the Delaware Default Standard, and Defendants' request 4 weeks prior to the close of fact discovery is contrary to this established procedure. Additionally, to the extent Dr. Brown was involved in Sight Sciences' business in areas that were subject to discovery in this matter, Sight's search of non-custodial data sources would have captured any responsive documents or correspondence involving Dr. Brown. Accordingly, Sight will not undertake an additional collection of documents from Dr. Brown.

Please also confirm whether Kirkland will represent Mr. Rivero and/or Dr. Sheybani in connection

with their deposition subpoenas served last week.

Additionally, we confirm that no one on Cooley's distribution list is involved in patent prosecution as defined in the PO (see 4/25 S. Dirks Email), and Cooley will continue to copy the Kirkland and Shaw Keller distribution lists on all correspondence going forward. Accordingly, we understand that Kirkland will copy zsightsciencesivantis@cooley.com on all correspondence going forward. Please confirm.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Strosnick, Lauren

Sent: Friday, May 26, 2023 1:48 PM

To: 'Teng, Austin C.' <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.ova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

With EOD approaching on the East Coast, we wanted to follow up on the third party subpoena issues noted in our 5/24 email below. Shay Glenn's counsel has been inquiring about whether we need to keep them involved in this matter. On the parties' 5/16 meet-and-confer, you stated you would get back to us on the Shay Glenn documents as well as the dates for the Jim Shay and Steve McAuley depositions. We followed up on 5/18, 5/22, and 5/24, but have received no response. Please confirm as soon as possible and no later than **EOD Tuesday, 5/30**, whether you will provide the requested productions or privilege log entries for the Shay Glenn documents, as well as the requested privilege log entries for the narrowed document requests to Steve McAuley (see 5/10 and 5/12 emails). Please also provide dates for the Jim Shay and Steve McAuley depositions by EOD Tuesday.

David Murdter will attend Mr. Hadba's deposition on Wednesday.

We intend to have Dr. Galanis include his factual knowledge in his expert report. We propose that Defendants depose Dr. Galanis during the expert deposition stage regarding both his expert and factual knowledge. Please confirm whether you agree.

Thanks,
Lauren

Lauren Strosnick

Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>

Sent: Thursday, May 25, 2023 4:26 PM

To: Strosnick, Lauren <lStrosnick@cooley.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

Below are a few updates regarding deposition scheduling:

- For Mr. Hadba's deposition on Wednesday, please let us know the name(s) of the attorney(s) attending in person and any dietary restrictions they may have.
- In light of your recently-amended initial disclosures, please provide dates for a fact deposition of John Galanis.
- We confirm that the depositions for Hadba, Weems, Kimball, Mojica, and Ainetchian depositions will occur at Kirkland's Dallas office.
- Ms. Stone's deposition will take place at Sheppard Mullin's Orange County office.
- We will follow up regarding whether Mr. Chodzko has any other availability.
- We confirm Mr. Capsel's deposition tomorrow (5/26) will begin at 9 AM MT.

Regards,
Austin

Austin Teng

KIRKLAND & ELLIS LLP

401 Congress Avenue, Austin, TX 78701

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austin.teng@kirkland.com

From: Strosnick, Lauren <LStrosnick@cooley.com>

Sent: Wednesday, May 24, 2023 10:58 PM

To: Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.ova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

We accept June 20 for Todd Abraham, with an 8:00am PT start time. Please provide alternate dates for Mr. Chodzko.

Regarding locations, please confirm that the Hadba, Weems, Kimball, Mojica, and Ainetchian depositions will occur at Kirkland's Dallas office. Please also provide the location for the Stone deposition at your earliest convenience. As noted previously, the Capsel deposition will occur at Cooley's Denver office; the Needleman, O'Keeffe, Buckley, and Paul Badawi depositions will occur at Cooley's Palo Alto office; the David Badawi deposition will occur at Cooley's Chicago office; and the Selnick deposition will occur at Cooley's NYC office. We will provide locations for the Rodberg, Phelps, Brown, and Papini depositions in due course.

Additionally, please advise by **Friday, May 26**, a date certain by which you will provide updates on (1) Shay Glenn's June 2022 transfer of files to Alcon (see our 5/12, 5/18, and 5/22 emails), (2) the narrowed document requests for Steve McAuley (see our 5/10 and 5/12 emails), and (3) deposition dates for Jim Shay and Steve McAuley (see our 5/10, 5/12, 5/18, and 5/22 emails).

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Strosnick, Lauren

Sent: Monday, May 22, 2023 4:11 PM

To: 'Teng, Austin C.' <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.ova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine

<jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Please confirm you will produce the purchase price allocation(s) and valuation(s) responsive to RFP 90, as discussed on the May 16 meet-and-confer, no later than this Wednesday, May 24, in advance of the first UTC witness deposition (Chuck Marshall). Please also provide an update by May 24 regarding Shay Glenn's June 2022 transfer of files to Alcon, including our request for you to search those files for at least Sight, Badawi, the Patents-in-Suit, and any related patent applications and publications, and produce any resulting non-privileged documents responsive to Sight's RFPs.

Thank you for the updates regarding depositions. We will get back to you as soon as we can on Chodzko, Kimball, and Abraham, and will look for your dates for Shay and McAuley.

Thanks,
Lauren

Lauren Strosnick

Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>

Sent: Monday, May 22, 2023 10:42 AM

To: Strosnick, Lauren <LStrosnick@cooley.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

We have several updates:

- Mike Chodzko is available for deposition on June 7 in Orange County, CA.
- As a reminder regarding Jasmine Ainetchian's deposition, she has a hard stop at 5:30 pm CT.
- We confirm Reay Brown for June 29.
- David Kimball will be available in Dallas on June 13 instead of Irvine.
- Regarding Todd Abraham, we do not agree to your conditions for the June 20 offered date. If

June 16 and the proposed June 20 schedule are unworkable, we can look into additional dates beyond the discovery period. Please let us know.

Best regards,
Austin

Austin Teng

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F +1 512 678 9101

austin.teng@kirkland.com

From: Strosnick, Lauren <lStrosnick@cooley.com>

Sent: Thursday, May 18, 2023 1:30 PM

To: Teng, Austin C. <austin.teng@kirkland.com>; Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

We write to memorialize and follow up on a few items discussed during the 5/16 meet-and-confer:

- Please confirm in writing that you accept June 29 for Reay Brown
- We look forward to receiving proposed dates for Mike Chodsko, Jim Shay, and Steve McAuley
- Regarding the deposition of Todd Abraham: June 16th is unworkable because the attorney responsible for Mr. Abraham is also responsible for Ms. Ainetchian, who is appearing that same day. As to June 20th, Sight remains concerned that a hard stop at 2:30 pm PT could unfairly limit Sight's time on the record with the deponent. If Defendants are willing to agree (1) to an 8 am start time on June 20, and (2) that if Sight is unable to finish its questioning of Mr. Abraham due to the abbreviated day, that Sight may hold open the deposition and finish on a subsequent day, then Sight can accept June 20 for Mr. Abraham. If Defendants do not agree to these conditions, please provide an alternative day other than June 16 for either Mr. Abraham or Ms. Ainetchian.
- In light of your representations (and subject to the understanding that defendants will not call Mr. Attias as a witness at any trial or hearing in this matter), we accept Weems in lieu of Attias and will take that deposition on June 6
- We look forward to receiving your position regarding the Matthew Wolf deposition subpoena

this week

- We look forward to your responses to our questions regarding Shay Glenn's June 2022 transfer of materials to Alcon
- Regarding Sight's 5/1 interrogatory responses:
 - Rog 12: Sight further points Defendants to SGHT0166268 under Rule 33(d), as discussed during the meet-and-confer and will provide a supplement in due course.
 - Rog 13: Sight will supplement its response to identify manufacturers of Helix prototypes. Regarding your request for identification of the specific outside funding sources for the Helix, please explain the relevance of this to the claims and defenses at issue.
 - Rog 14: Please provide any case law authority for your position that Sight must provide an element-by-element analysis, as requested in advance of the meet-and-confer.
 - Rog 18: Sight is investigating the issues raised during the conferral and expects to supplement its response to this interrogatory.
- As to deposition logistics, we confirm that the party furnishing a witness will provide a deposition location. We will provide deposition locations for next week's depositions later today or tomorrow.
- Please assume that all depositions of witnesses furnished by Sight Sciences will be available to begin at 9 AM local time unless another time is agreed in advance.
 - Richard Plank's wife's birthday is on May 23, and he is taking her to a concert that evening, so his deposition must end by 4 PM local time. He is available to begin as early as 7 AM local time if you wish to start earlier.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>

Sent: Thursday, May 18, 2023 8:15 AM

To: Armon, Orion <oarmon@cooley.com>; Strosnick, Lauren <lStrosnick@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; [*msharp@ycst.com](mailto:msharp@ycst.com) <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; [*jhiggins@ycst.com](mailto:jhiggins@ycst.com) <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Orion,

We agree that each side will provide a location for all of the witnesses it represents.

Austin Teng

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401 Congress Avenue, Austin, TX 78701

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austin.teng@kirkland.com

From: Armon, Orion <oarmon@cooley.com>

Sent: Wednesday, May 17, 2023 7:27 PM

To: Teng, Austin C. <austin.teng@kirkland.com>; Strosnick, Lauren <LStrosnick@cooley.com>; Bova, Justin <justin.ova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel – We'd like to reach an understanding regarding deposition locations. I believe that I heard you say that defendants will select and provide/host the location for all defense witnesses. Is my understanding correct? If so, we will do the same for Sight witnesses. I would appreciate a response ASAP, and in any event no later than tomorrow.

Orion

From: Teng, Austin C. <austin.teng@kirkland.com>

Sent: Tuesday, May 16, 2023 5:29 PM

To: Strosnick, Lauren <LStrosnick@cooley.com>; Bova, Justin <justin.ova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

Defendants are willing to provide Jason Weems for deposition in lieu of Laurent Attias. As discussed on today's meet confer, below is the requested information concerning Mr. Weems and Topics 59 and 76. Mr. Weems remains available for deposition at Kirkland Dallas on June 6.

(i) who Defendants are designating as a 30(b)(6) witness on Sight's topics 59 and 76.

Defendants plan to designate Jason Weems on Topics 59 and 76 subject to their forthcoming objections.

(ii) whether Weems has personal knowledge regarding topics 59 and 76, and

Mr. Weems has personal knowledge regarding Topics 59 and 76.

(iii) Mr. Weems's role in the Alcon's acquisition of Ivantis.

As Alcon's Head of Business Development & Licensing Transactions, Jason Weems was part of the team that evaluated and helped negotiate the Ivantis acquisition.

Regards,
Austin

Austin Teng

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austin.teng@kirkland.com

From: Strosnick, Lauren <LStrosnick@cooley.com>

Sent: Monday, May 15, 2023 12:21 PM

To: Teng, Austin C. <austin.teng@kirkland.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <*msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <*jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Dr. Reay Brown is available on June 30 in Atlanta, with the understanding that no other case deadlines will be affected. Please confirm whether this works.

We look forward to hearing back on your availability to meet and confer tomorrow.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Strosnick, Lauren
Sent: Friday, May 12, 2023 4:59 PM
To: 'Teng, Austin C.' <austin.teng@kirkland.com>; 'Bova, Justin' <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; '*msharp@ycst.com' <msharp@ycst.com>; 'Hallowell, Taylor E.' <THallowell@ycst.com>; '*jhiggins@ycst.com' <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>
Cc: 'SKIvantis' <SKIvantis@shawkeller.com>; '#Alcon-SightSciences' <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Please also let us know whether you would like to set the deposition location for Defendants' witnesses. Sight's witnesses will be provided at a Cooley office as much as possible.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Strosnick, Lauren
Sent: Friday, May 12, 2023 4:19 PM
To: 'Teng, Austin C.' <austin.teng@kirkland.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; '*msharp@ycst.com' <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; '*jhiggins@ycst.com' <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

We are available on Tuesday, May 16, from 4-5pm ET or 6-7pm ET to meet and confer regarding the below outstanding issues. Please confirm that a decisionmaker for Defendants and Defendants' Delaware counsel will be in attendance, and let us know what time works for you. As noted below, Sight's ability to take depositions is being unfairly prejudiced by Defendants' refusal to produce highly relevant discovery in a timely manner. Please be prepared to provide Defendants' final positions on each of the items listed below. We intend to request relief from the Court relating to any issues that are unresolved during the conferral.

- Depositions
 - We accept June 27 for Van Meter and June 1 for Cari Stone. We agree not to call Ali Bauerlein as a witness at trial and confirm that you cancelled her deposition, as well as the deposition of Shawn O'Neil noticed for May 19.
 - Please provide the following requested information relevant to Jason Weems and Laurent Attias: (i) who Defendants are designating as a 30(b)(6) witness on Sight's topics 59 and 76, (ii) whether Mr. Weems has personal knowledge regarding topics 59 and 76, and (iii) Mr. Weems's role in the Alcon's acquisition of Ivantis.
 - We are considering whether June 14 would work for Ben Sather, but please confirm whether Mr. Sather's deposition could proceed remotely on May 19
 - We are considering your email proposing to change the previously-accepted June 20 deposition date for Todd Abraham
 - Deposition of Reay Brown: Defendants inquired regarding Dr. Brown's availability in July. To the extent he is available, Sight would agree to allow his deposition to occur past the discovery cutoff date only if Defendants agree that expert report deadlines and other aspects of the case schedule will not be affected.
 - Please confirm whether June 14 works for Brandon Mojica
 - Please provide deposition date(s) for Mike Chodsko
- *Glaukos* litigation materials (*see* 5/11/2023 O. Armon Email to L. Glasser and L. Glasser response; *see also* 5/11/2023 L. Strosnick Email)
 - Please be prepared to provide Defendants' final positions regarding production of the listed materials
- Third party subpoenas
 - Please be prepared to indicate whether we have agreement regarding the scope of the third-party discovery Sight seeks from Steve McAuley and Jim Shay
 - Please be prepared to confer about Steve McAuley's 5/11/2023 Responses and Objections to Sight's Document Request Subpoena
 - Please be prepared to confer about Sight's list of non-privileged core issues we intend to cover in the depositions of Steve McAuley and Jim Shay (*see* 5/10/2023 L. Strosnick Email)
 - Document request subpoena to Shay Glenn
 - Counsel for Shay Glenn advised that, in connection with Alcon's acquisition of Ivantis, Shay Glenn transferred all electronic Ivantis-related files and

communications through May 31, 2022 to Alcon on June 1, 2022, and transferred all Ivantis-related physical files to Alcon via FedEx on June 2, 2022. Counsel also confirmed that these transfers included all pre-2016 Ivantis-related files and communications.

- Please be prepared to confirm that you searched these transferred files and communications as part of your document review in this case, produced any resulting non-privileged documents responsive to Sight's RFPs, and logged any privileged documents or communications. If you did not do so, please confirm that you will immediately search these transferred files and communications for at least Sight, Badawi, the Patents-in-Suit, and any related patent applications and publications, and produce any resulting non-privileged documents responsive to Sight's RFPs. Please also update your privilege log to reflect any privileged responsive pre-2016 documents and communications with Shay Glenn.
- 5/9/2023 A. Teng Email re Sight's responses to Interrogatory Nos. 12, 13, 14, and 18
 - Sight's responses to Interrogatory Nos. 12, 13, 14, and 18 are sufficient, and Sight does not possess any additional information that would necessitate a supplement at this time.
 - Regarding Interrogatory No. 12, contrary to your suggestion, Sight's response provides a sufficiently detailed factual and legal explanation of Sight's request for equitable relief using the *eBay* four-factor as a framework. To the extent this Interrogatory seeks information relating to the opinions of Sight's independent experts, such information will be provided in accordance with the expert testimony Sight will disclose in accordance with the Scheduling Order, as explained in Sight's objections to Interrogatory No. 12.
 - Regarding Interrogatory No. 13, Sight will produce Sight's regulatory submissions and the FDA's responses.
 - With respect to Interrogatory No. 14, our objections cited specific authority that a patentee is not obligated to provide the element-by-element analysis you demand. If you believe any contrary authority supports your position, please provide it so that we can further evaluate your request.
 - Regarding Interrogatory No. 18, we again disagree that Sight's response is insufficient. Sight's response provides a detailed explanation of the facts and relevant evidence of which it is presently aware that reflect its capacity to meet the demand for the Accused Products. In the event Sight becomes aware of additional relevant, non-privileged information it will timely supplement its response.
- 5/10/2023 J. Bova Letter re various discovery issues
 - Your equivocal statement that Defendants "do not anticipate offering for sale on the market a viscoelastic delivery device before April 8, 2024" is insufficient to establish that commercialization of the Indus device will not occur before trial in this case. Your produced documents indicate that Defendants are planning their initial 510(k) submission for the Indus Viscodelivery System in September 2023, followed by full commercial launch in January 2024. (IVANTIS_SS_00208993; *see also* IVANTIS_SS_00209169 ("Indus 510k submission – target August 2023").) Accordingly,

Sight will continue pursuing discovery on this issue through depositions. (See 5/2/2023 O. Armon Letter at 7.)

- Nearly one month ago, Defendants stated that they would produce unredacted versions of documents with “Not Responsive” redactions or slipsheets. (4/17/2023 S. Dirks Email; 5/2/2023 O. Armon Letter at 7.) If Defendants do not produce these unredacted documents sufficiently in advance of their witnesses’ depositions, Sight reserves the right to hold the deposition open and seek fees and costs for any re-depositions. We are aware of the production of documents made by defendants today; to the extent that production includes the requested reproduction, this issue would be resolved.
- Regarding Defendants’ RFPs 95 and 96 relating to the Helix, Sight agrees to produce documents sufficient to show Sight’s submissions to the FDA (and the FDA’s responses) relating to Helix.
- Regarding RFP 88, please be prepared to further explain the basis for your refusal to produce documents prepared for, sent to, or presented to Alcon’s board of directors regarding the *Glaukos* case. These materials are relevant to the validity, infringement, and damages positions that Defendants are taking in this case.
- We are evaluating your proposal for case narrowing and will separately provide a counter-proposal, but as we previously explained, narrowing of claims and defenses should not begin until after Judge Williams’ claim construction order.
- Please respond to the outstanding issues mentioned in your May 10 letter (RFPs 90, 115, 124, 131, 135, 147, and 149) as soon as possible
 - Regarding RFP 90, your May 10 letter states that you are “continuing to investigate ... and aim to provide an updated response by the end of the week.” Please be prepared to provide a final position during the parties’ meet and confer. This RFP is relevant to the purchase price allocation(s) that we expect Alcon to have conducted in connection with its acquisition of Ivantis, as previously discussed multiple times.
 - Regarding RFPs 115, 124, 131, 135, and 147, your May 10 letter states that you are “continuing to investigate Sight’s contentions [regarding a 2012 hypothetical negotiation date] and aim to provide an updated response by the end of the week.” Please be prepared to provide a final position during the parties’ meet and confer.
 - Regarding RFP 149 (negotiations and discussions regarding Glaukos settlement), your May 10 letter states that you are “investigating the scope of this request and aim to provide an update by the end of the week.” Please be prepared to provide a final position during the parties’ meet and confer.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>

Sent: Friday, May 12, 2023 2:29 PM

To: Bova, Justin <justin.bova@kirkland.com>; Strosnick, Lauren <Strosnick@cooley.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

As an additional update, Defendants do not intend to proceed with the deposition of Shawn O'Neill at this time. We will let you know if that changes in the future.

Regards,
Austin

Austin Teng

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austin.teng@kirkland.com

From: Bova, Justin <justin.bova@kirkland.com>

Sent: Friday, May 12, 2023 4:27 PM

To: Strosnick, Lauren <Strosnick@cooley.com>; Teng, Austin C. <austin.teng@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Ben Sather is available June 14 instead of May 19. We were informed that Todd Abraham has a

commitment at 3PM PT on June 20, so he can be available on June 16 instead. Please let us know if those dates for Mr. Sather and Mr. Abraham work.

Please also provide an alternative date for Reay Brown besides June 29, including the first week in July in light of the current June schedule, if you will agree to extend the discovery deadline for his deposition.

Thank you,
Justin

Justin Bova

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1301 Pennsylvania Ave NW, Washington, D.C. 20004

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justin.bova@kirkland.com

From: Strosnick, Lauren <LStrosnick@cooley.com>

Sent: Thursday, May 11, 2023 7:04 PM

To: Bova, Justin <justin.bova@kirkland.com>; Teng, Austin C. <austin.teng@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; [*msharp@ycst.com](mailto:msharp@ycst.com) <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; [*jhiggins@ycst.com](mailto:jhiggins@ycst.com) <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

In the interest of moving forward, we accept your proposal to designate a witness for any 30(b)(6) topic(s) five business days before the date of that witness's deposition.

Thank you for confirming that you will take Mika Mayer's deposition remotely on May 18. We will take Ben Sather's deposition remotely as well; please confirm whether May 19 will work for a remote deposition for Ben Sather.

We accept June 20 for Todd Abraham (chart updated below). Dr. Reay Brown is not available on June 26 or 27; he is only available on June 29. Please confirm that this works.

We look forward to your additional responses regarding Cari Stone, Jason Weems / Laurent Attias, Dave Van Meter, Mike Chodzko, Dave Needleman, Jesse Selnick, and Tim Buckley.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Bova, Justin <justin.bova@kirkland.com>
Sent: Thursday, May 11, 2023 2:04 PM
To: Strosnick, Lauren <LStrosnick@cooley.com>; Teng, Austin C. <austin.teng@kirkland.com>; Rhyu, Michelle <RHUYMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; [*msharp@ycst.com](mailto:msharp@ycst.com) <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; [*jhiggins@ycst.com](mailto:jhiggins@ycst.com) <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

On May 3, we proposed designating a witness on any 30(b)(6) topic(s) three business days before the deposition date. We do not accept your May 9th counterproposal of designating witnesses for all topics by noon PT this Friday, May 12. Please let us know whether Sight will accept designating a witness for any topic(s) five business days before the date of deposition.

Regarding Mika Mayer, if she is only available on May 18, we will proceed with a remote deposition and may need to start as early as 8 AM PT. In addition, we will move Ben Sather's deposition from May 19, and we will follow up with you regarding a new date.

Todd Abraham is available on June 20 in Irvine.

Is Dr. Reay Brown available on June 26 if June 27 does not work?

We will continue to follow up with you regarding additional witness scheduling.

Justin Bova

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From: Strosnick, Lauren <LStrosnick@cooley.com>
Sent: Thursday, May 11, 2023 4:34 PM
To: Teng, Austin C. <austin.teng@kirkland.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHUUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>
Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Additionally, please confirm as soon as possible today whether you agree to our May 9 proposal that each party designates witness(es) for each 30(b)(6) topic (subject to each party's objections, which we'll address at a later date), by **noon PT tomorrow, May 12**.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Strosnick, Lauren
Sent: Thursday, May 11, 2023 10:55 AM
To: 'Teng, Austin C.' <austin.teng@kirkland.com>; 'Bova, Justin' <justin.bova@kirkland.com>; Rhyu, Michelle <RHUUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; 'Hallowell, Taylor E.' <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>
Cc: 'SKIvantis' <SKIvantis@shawkeller.com>; '#Alcon-SightSciences' <Alcon-SightSciences@kirkland.com>
Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

We have about 30 depositions to complete in the next 7 weeks. It is critical that you respond to our May 9 email, and in particular that you provide deposition dates for Dave Van Meter and Todd Abraham, by noon tomorrow. Regarding Mika Mayer's deposition on May 18, we informed you that Ms. Mayer has very limited availability and is only available on this date. We have been as

accommodating as possible to offer additional dates as you have requested, but this one is inflexible. Given that the date is one week away, please respond by 3pm PT today (May 11) as to whether you still intend to go forward with her deposition.

Further, in light of Mr. Chodsko's inclusion on defendants' recently-served amended disclosures, please provide dates for his deposition (chart updated below).

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Strosnick, Lauren

Sent: Tuesday, May 9, 2023 5:04 PM

To: 'Teng, Austin C.' <austin.teng@kirkland.com>; 'Bova, Justin' <justin.bova@kirkland.com>; Rhyu, Michelle <RHUYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; '*msharp@ycst.com' <msharp@ycst.com>; 'Hallowell, Taylor E.' <THallowell@ycst.com>; '*jhiggins@ycst.com' <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: 'SKlvantis' <SKlvantis@shawkeller.com>; '#Alcon-SightSciences' <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

We accept May 25 for Chuck Marshall (chart updated below). Additionally, for the 30(b)(6) deposition notices, we propose that each party designates witness(es) for each topic (subject to each party's objections, which we'll address at a later date), by **noon PT this Friday, May 12**. Please by tomorrow whether you agree.

We also write to follow up on a number of items discussed on the May 5 meet-and-confer. Please provide updates for the following issues as soon as possible, and no later than 5pm PT tomorrow:

- Defendants' position regarding Sight's RPF 149 (negotiations and discussion regarding Glaukos settlement)
- Defendants' position regarding RFP 90 (valuations of the Hydrus business)
- Defendants' position regarding whether you agree to produce documents responsive to RFPs 115, 124, 131, 135, and 147 for the full scope of those Requests (Jan. 1, 2012 to present)
- Defendants' updated position on Indus
- Defendants' updated Rule 9(b) disclosures including sales figures for Hydrus to-date
- Produce unredacted versions of documents produced with redactions or slipsheets captioned "Not Responsive"

We reiterate our requests for information relating to deposition dates in our email below. We

would appreciate responses as soon as possible and no later than 5pm PT tomorrow.

Thanks,
Lauren

Lauren Strosnick
Direct: +1 650 843 5065

From: Strosnick, Lauren

Sent: Tuesday, May 9, 2023 12:05 PM

To: 'Teng, Austin C.' <austin.teng@kirkland.com>; Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHUUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; [*msharp@ycst.com](mailto:msharp@ycst.com) <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; [*jhiggins@ycst.com](mailto:jhiggins@ycst.com) <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Wood, Alissa <amwood@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>; Gibbs, Tracy <tgibbs@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Dave Needleman is available on June 1 or 2; Jesse Selnick is available on June 19; Tim Buckley is available June 9. We accept May 19 for Ben Sather, June 20 for Brett Trauthen, and June 21 for Mark Papini. We propose June 14 for Brandon Mojica. Reay Brown is not available on June 27, and Mika Mayer is only available on May 18.

We have updated your charts to reflect these updates (see highlighting). Please confirm these dates, and provide the additional information regarding Mr. Weems, at your earliest convenience. Please also provide dates for Dave Van Meter and Todd Abraham as soon as possible.

Thanks,
Lauren

Ivantis/Alcon Witness	Location	Date	Sight Response
Ben Sather	Irvine	May 19	Accepted
Chuck Marshall	Dallas/Ft. Worth	May 25	Accepted
Ahmad Hadba	Dallas/Ft. Worth	May 31	Accepted
Cari Stone	Orange County, CA	June 1 offered (investigating your request for a new date)	Please provide an additional date
Jason Weems	Dallas/Ft. Worth	June 6	We are considering your request to offer Mr. Weems in place of Mr.

			Attias. As stated on the meet-and-confer, please provide the following information: (i) who Defendants are designating as a 30(b)(6) witness on Sight's topics 59 and 76, (ii) whether Weems has personal knowledge regarding topics 59 and 76, and (iii) Mr. Weems's role in the Alcon's acquisition of Ivantis.
Brett Trauthen	Irvine	June 20	Accepted
Brandon Mojica	Dallas/Ft. Worth	June 7 offered (Sight to propose additional dates)	June 14
David Kimball	Irvine	June 13	Accepted
Doug Roeder	Menlo Park	June 21	Accepted
Andy Schieber	Irvine	June 22	Accepted
Jasmine Ainetchian	Dallas/Ft. Worth	June 16	Accepted
Dave Van Meter			Please provide date(s) as soon as possible
Todd Abraham			Please provide date(s) as soon as possible
Laurent Attias			See above for Mr. Weems
Mike Chodzko			Please provide date(s)

Sight Witness	Location	Date	Response	Sight Response
Dan O'Keeffe	Cooley Palo Alto	June 8	Accepted	N/A
Dave Needleman	Cooley Palo Alto	May 12	Is Mr. Needleman available on May 15 or 19?	Does June 1 or 2 work?
Jesse Selnick	Cooley NYC	May 12	Please provide additional dates.	Does June 19 work?
Jim Rodberg	Minneapolis	June 13	Accepted	N/A
Mark Papini	Ft. Worth	June 23	Is Mr. Papini available on June 21?	Yes – accepted
Reay Brown	Atlanta	June 29	Is Dr. Brown available on June 27?	No; we need to stick with June 29 – please confirm whether that works
Paul Badawi	Cooley Palo Alto	June 23	Accepted	N/A
David Badawi	Cooley Chicago	June 5	Accepted	N/A
Richard Plank	Bentonville, AR	May 23	Accepted	N/A
Aaron Capsel	Cooley Denver	May 26	Accepted	N/A
Ali Bauerlein	Cooley Palo Alto	June 2	Accepted	N/A
Chris Phelps	Des Moines	June 15	Accepted	N/A

Shawn O'Neil	Southlake, TX	May 19	Accepted	N/A
Tim Buckley	Cooley Palo Alto	June 1	Please provide additional dates.	Does June 9 work?
Mika Mayer	Cooley Palo Alto	May 18	Please provide additional dates.	Mika is only available on May 18

Lauren Strosnick

Direct: +1 650 843 5065

From: Teng, Austin C. <austin.teng@kirkland.com>

Sent: Tuesday, May 9, 2023 10:03 AM

To: Bova, Justin <justin.bova@kirkland.com>; Strosnick, Lauren <lStrosnick@cooley.com>; Rhyu, Michelle <RHUYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel,

Chuck Marshall is available on May 25 in Dallas/Ft. Worth. Please confirm whether this date works.

Austin Teng

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401 Congress Avenue, Austin, TX 78701

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F +1 512 678 9101

austin.teng@kirkland.com

From: Bova, Justin <justin.bova@kirkland.com>

Sent: Monday, May 8, 2023 3:50 PM

To: Strosnick, Lauren <lStrosnick@cooley.com>; Rhyu, Michelle <RHUYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

A couple of additional dates at your request: Ben Sather is available May 19 and Brett Trauthen is available June 20 (both in Irvine). Please confirm whether these new dates for Mr. Sather and Mr. Trauthen work.

<u>Witness</u>	<u>Location</u>	<u>Date</u>
Ben Sather	Irvine	May 19
Chuck Marshall	Dallas/Ft. Worth	May 25
Ahmad Hadba	Dallas/Ft. Worth	May 31
Cari Stone	Orange County, CA	June 1 offered (investigating your request for a new date)
Jason Weems	Dallas/Ft. Worth	June 6
Brett Trauthen	Irvine	June 20
Brandon Mojica	Dallas/Ft. Worth	June 7 offered (Sight to propose additional dates)
David Kimball	Irvine	June 13
Doug Roeder	Menlo Park	June 21
Andy Schieber	Irvine	June 22
Jasmine Ainetchian	Dallas/Ft. Worth	June 16

For Sight's witnesses, we accept Shawn O'Neill on May 19. Can you please provide additional availability for Mika Mayer?

<u>Witness</u>	<u>Location</u>	<u>Date</u>	<u>Response</u>
Dan O'Keeffe	Cooley Palo Alto	June 8	Accepted
Dave Needleman	Cooley Palo Alto	May 12	Is Mr. Needleman available on May 15 or 19?
Jesse Selnick	Cooley NYC	May 12	Please provide additional dates.
Jim Rodberg	Minneapolis	June 13	Accepted
Mark Papini	Ft. Worth	June 23	Is Mr. Papini available on June 21?
Reay Brown	Atlanta	June 29	Is Dr. Brown available on June 27?
Paul Badawi	Cooley Palo Alto	June 23	Accepted
David Badawi	Cooley Chicago	June 5	Accepted
Richard Plank	Bentonville, AR	May 23	Accepted
Aaron Capsel	Cooley Denver	May 26	Accepted
Ali Bauerlein	Cooley Palo Alto	June 2	Accepted
Chris Phelps	Des Moines	June 15	Accepted
Shawn O'Neil	Southlake, TX	May 19	Accepted
Tim Buckley	Cooley Palo Alto	June 1	Please provide additional dates.
Mika Mayer	Cooley Palo Alto	May 18	Please provide additional dates.

Thank you,
Justin

Justin Bova

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F +1 202 389 5200

justin.bova@kirkland.com

From: Strosnick, Lauren <lStrosnick@cooley.com>

Sent: Thursday, May 4, 2023 5:23 PM

To: Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Thanks – we were actually going to ask if Mr. Sather is available on May 19 – let us know if that works. We will let you know about the others tomorrow.

Lauren Strosnick

Direct: +1 650 843 5065

From: Bova, Justin <justin.bova@kirkland.com>

Sent: Thursday, May 4, 2023 2:18 PM

To: Rhyu, Michelle <RHYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <lStrosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel—Jasmine Ainetchian is available for deposition on June 16 in Dallas/Ft. Worth. Mr. Sather recently informed us he has to travel on May 16 so we are coordinating another date for him.

<u>Witness</u>	<u>Location</u>	<u>Date</u>
Ben Sather	Irvine	Will provide a new date
Ahmad Hadba	Dallas/Ft. Worth	May 31
Cari Stone	Orange County, CA	June 1
Jason Weems	Dallas/Ft. Worth	June 6
Brett Trauthen	Irvine	June 15
Brandon Mojica	Dallas/Ft. Worth	June 7
David Kimball	Irvine	June 13
Doug Roeder	Menlo Park	June 21
Andy Schieber	Irvine	June 22
Jasmine Ainetchian	Dallas/Ft. Worth	June 16

Justin Bova

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justin.bova@kirkland.com

From: Bova, Justin

Sent: Wednesday, May 3, 2023 4:47 PM

To: 'Rhyu, Michelle' <RHUYUMS@cooley.com>; Armon, Orion <oarmon@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <LStrosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Thank you for providing the availability of Sight's witnesses. As previously discussed, Sight continues to produce relevant, outstanding documents/materials, including as recently as Monday this week at 4PM, that should have been produced months ago. Therefore, please provide later dates when Dan O'Keeffe and Jesse Selnick are available to sit for a deposition. Below is a table of most of Sight's witnesses, locations, and dates you've offered with our response. We are still investigating the dates you've offered for Mika Mayer, Shawn O'Neil, and Tim Buckley. Are you are authorized to accept service of a subpoena on behalf of all of these individuals?

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<u>Witness</u>	<u>Location</u>	<u>Date</u>	<u>Response</u>
Dan O’Keeffe	Cooley Palo Alto	May 10	Please provide additional dates.
Dave Needleman	Cooley Palo Alto	May 12	Is Mr. Needleman available on May 15 or 19?
Jesse Selnick	Cooley NYC	May 12	Please provide additional dates.
Jim Rodberg	Minneapolis	June 13	Accepted
Mark Papini	Ft. Worth	June 23	Is Mr. Papini available on June 21?
Reay Brown	Atlanta	June 29	Is Dr. Brown available on June 27?
Paul Badawi	Cooley Palo Alto	June 23	Accepted
David Badawi	Cooley Chicago	June 5	Accepted
Richard Plank	Bentonville, AR	May 23	Accepted
Aaron Capsel	Cooley Denver	May 26	Accepted
Ali Bauerlein	Cooley Palo Alto	June 2	Accepted
Chris Phelps	Des Moines	June 15	Accepted

Additionally, below are witness availabilities and locations for some of the witnesses you’ve requested. We can accept service on behalf of the witnesses listed below. We note that Sight has not yet served any 30(b)(6) topics. We offer the below availabilities subject to Sight providing any 30(b)(6) topics with advance notice to prepare our witnesses. At this time, we do not anticipate Defendants’ 30(b)(6) witnesses needing to sit for more than the 7 hour limit included in the Scheduling Order. Additionally, for a witness that will be designated on any 30(b)(6) topic(s), we propose mutual agreement that the party provide any designation(s) three business days before the date of deposition. Please confirm whether you agree.

<u>Witness</u>	<u>Location</u>	<u>Date</u>
Ben Sather	Irvine	May 16
Ahmad Hadba	Dallas/Ft. Worth	May 31
Cari Stone	Orange County, CA	June 1
Jason Weems	Dallas/Ft. Worth	June 6
Brett Trauthen	Irvine	June 15
Brandon Mojica	Dallas/Ft. Worth	June 7
David Kimball	Irvine	June 13
Doug Roeder	Menlo Park	June 21
Andy Schieber	Irvine	June 22

Finally, attached is Defendants’ Notice of Deposition of Plaintiff Pursuant to Fed. R. Civ. P. 30(b)(6).

Thank you,
Justin

Justin Bova

=====

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justin.bova@kirkland.com

From: Rhyu, Michelle <RHYUMS@cooley.com>

Sent: Wednesday, May 3, 2023 2:44 PM

To: Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <LStrosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Tim Buckley is available for deposition in Palo Alto on June 1. We have now provided dates for all of the depositions you have asked for. Once again we ask for your confirmation of these dates and for the dates your own witnesses are available for deposition. As Orion requested yesterday, please provide dates and times for depositions of your witnesses by tomorrow.

While both parties are continuing to produce documents in areas addressed during recent conferrals between counsel, those ongoing processes are no justification for delaying depositions. We expect that both sides recognize their obligation to complete production of documents relevant to each witness in a manner that is not prejudicial to the other side.

Michelle

From: Rhyu, Michelle

Sent: Tuesday, May 2, 2023 6:31 PM

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel,

Dave Needleman is available May 12 (Cooley Palo Alto) at 9AM.

Michelle

From: Armon, Orion <oarmon@cooley.com>

Sent: Tuesday, May 2, 2023 2:48 PM

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel – Please respond ASAP regarding the deposition dates and times offered below. Your non-responsiveness is delaying the discovery process.

Shawn O'Neil (Southlake TX): May 19

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(Previously offered)

Ali Bauerlein (Cooley Palo Alto): June 1 or 2; deposition must conclude by 2 PM (we can begin early if necessary)

Richard Plank (Bentonville AR): May 23; deposition must conclude by 3 PM (we can begin early if necessary)

Chris Phelps (Des Moines): June 15

Aaron Capsel (Cooley Denver): May 26

Dan O’Keeffe (Cooley Palo Alto): May 10

Dave Needleman (Cooley Palo Alto): May 5 (*checking alternate dates*)

Jesse Selnick (Cooley NYC): May 12

Jim Rodberg (Minneapolis): June 13

Mark Papini (Ft. Worth): June 23

Reay Brown (Atlanta): June 29

Paul Badawi is available on June 23 at 9:00 AM at Cooley’s Palo Alto office

Mika Mayer is available May 18 at 9:00 AM at Cooley’s Palo Alto office

David Badawi is available June 5 at 9:00 AM at Cooley’s Chicago office

Orion Armon

Cooley LLP
1144 15th Street, Suite 2300
Denver, CO 80202-2686
720 566 4119 office
303 949 0925 mobile
oarmon@cooley.com

From: Armon, Orion <oarmon@cooley.com>

Sent: Monday, May 1, 2023 5:35 PM

To: Rhyu, Michelle <RHYUMS@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <LStrosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel – Additional witness availability – please confirm these dates at your earliest convenience:

Ali Bauerlein (Cooley Palo Alto): June 1 or 2; deposition must conclude by 2 PM (we can begin early if necessary)

Richard Plank (Bentonville AR): May 23; deposition must conclude by 3 PM (we can begin early if necessary)

Chris Phelps (Des Moines): June 15

Aaron Capsel (Cooley Denver): May 26

=

(Previously offered)

Dan O'Keeffe (Cooley Palo Alto): May 10

Dave Needleman (Cooley Palo Alto): May 5

Jesse Selnick (Cooley NYC): May 12

Jim Rodberg (Minneapolis): June 13

Mark Papini (Ft. Worth): June 23

Reay Brown (Atlanta): June 29

Paul Badawi is available on June 23 at 9:00 AM at Cooley's Palo Alto office

Mika Mayer is available May 18 at 9:00 AM at Cooley's Palo Alto office

David Badawi is available June 5 at 9:00 AM at Cooley's Chicago office

Orion

Orion Armon

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303 949 0925 mobile

oarmon@cooley.com

From: Rhyu, Michelle <RHYUMS@cooley.com>

Sent: Friday, April 28, 2023 1:20 PM

To: Armon, Orion <oarmon@cooley.com>; Bova, Justin <justin.bova@kirkland.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <lstrosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel – One more deposition date to offer:

Dan O'Keeffe (Palo Alto): May 10. Please confirm as soon as possible.

Michelle

From: Armon, Orion <oarmon@cooley.com>

Sent: Thursday, April 27, 2023 8:42 PM

To: Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <lstrosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Counsel – Additional witness availability is as follows:

Dave Needleman (Cooley Palo Alto): May 5

Jesse Selnick (Cooley NYC): May 12

Jim Rodberg (Minneapolis): June 13

Mark Papini (Ft. Worth): June 23

Reay Brown (Atlanta): June 29

=

(Previously offered)

Paul Badawi is available on June 23 at 9:00 AM at Cooley's Palo Alto office

Mika Mayer is available May 18 at 9:00 AM at Cooley's Palo Alto office

David Badawi is available June 5 at 9:00 AM at Cooley's Chicago office

Please confirm these dates at your earliest convenience. We are checking on the others.

Orion

Orion Armon

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1144 15th Street, Suite 2300
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720 566 4119 office
303 949 0925 mobile
oarmon@cooley.com

From: Armon, Orion

Sent: Tuesday, April 25, 2023 6:25 PM

To: Bova, Justin <justin.bova@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PARora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <lstrosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; z/Sight Sciences Ivantis <zSightSciencesIvantis@cooley.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

Justin –

Paul Badawi is available on June 23 at 9:00 AM at Cooley's Palo Alto office

Mika Mayer is available May 18 at 9:00 AM at Cooley's Palo Alto office

David Badawi is available June 5 at 9:00 AM at Cooley's Chicago office

Please confirm these dates at your earliest convenience. We are checking on the others.

Orion

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From: Bova, Justin <justin.bova@kirkland.com>

Sent: Friday, April 21, 2023 3:07 PM

To: Armon, Orion <oarmon@cooley.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <Strosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>

Subject: RE: Sight Sciences v. Ivantis - Deposition scheduling

[External]

Counsel, we are in receipt of the list of individuals Sight will notice for deposition, and we are investigating. Defendants will notice the below individuals for deposition. Please let us know their availability and location. Please also let us know whether you are authorized to accept service of a subpoena on behalf of the former employees

1. Aaron Capsel
2. Ali Bauerlein
3. Chris Phelps
4. Daniel O'Keeffe
5. Dave Needleman
6. David Y. Badawi, M.D.
7. Jesse Selnick
8. Jim Rodberg
9. Mark Papini
10. Mika Meyer
11. Paul Badawi
12. Reay Brown
13. Richard Plank
14. Shawn O'Neill
15. Tim Buckley

Thank you,
Justin

Justin Bova

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From: Armon, Orion <oarmon@cooley.com>

Sent: Monday, April 17, 2023 11:26 PM

To: Bova, Justin <justin.bova@kirkland.com>; #Alcon-SightSciences <Alcon-SightSciences@kirkland.com>; Rhyu, Michelle <RHYUMS@cooley.com>; Arora, Priya <PArora@cooley.com>; Madrigal, Angela R. <AMadrigal@cooley.com>; *msharp@ycst.com <*msharp@ycst.com>; Hallowell, Taylor E. <THallowell@ycst.com>; *jhiggins@ycst.com <*jhiggins@ycst.com>; Murdter, David <dmurdter@cooley.com>; Vanderwall, Cameron C. <cvanderwall@cooley.com>; Strosnick, Lauren <Strosnick@cooley.com>; Douglas, Jeannine <jdouglas@cooley.com>

Cc: SKIvantis <SKIvantis@shawkeller.com>; Armon, Orion <oarmon@cooley.com>

Subject: Sight Sciences v. Ivantis - Deposition scheduling

Counsel – Sight Sciences will notice the following individuals for deposition. Please provide dates when each witness is available for deposition between May 2 and the close of fact discovery, along with their preferred deposition location. For former employees, please let us know whether you are authorized to accept service of a subpoena on behalf of the witness, and where we should direct payment for witness and mileage fees.

1. Andy Schieber
2. Dave Van Meter
3. Brandon Mojica
4. Chuck Marshall
5. Cari Stone
6. Todd Abraham
7. Ahmad Hadba
8. David Kimball
9. Brett Trauthen
10. Jasmine Ainetchian
11. Ben Sather
12. Laurent Attias
13. Jim Shay
14. Doug Roeder

Orion

Orion Armon

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